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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/776,619	02/12/2004	Suresh Rangaswamy Babu	11884/407501	3957

23838 7590 09/28/2005

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EXAMINER	
RUHL, DENNIS WILLIAM	
ART UNIT	**PAPER NUMBER**
3629	

DATE MAILED: 09/28/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary	Application No.	Applicant(s)	
	10/776,619	BABU, SURESH RANGASWAMY	
	Examiner	Art Unit	
	Dennis Ruhl	3629	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

1)☒ Responsive to communication(s) filed on *19 July 2005*.

2a)☒ This action is **FINAL**. 2b)☐ This action is non-final.

3)☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

4)☒ Claim(s) *1-19* is/are pending in the application.

4a) Of the above claim(s) _____ is/are withdrawn from consideration.

5)☐ Claim(s) _____ is/are allowed.

6)☒ Claim(s) *1-19* is/are rejected.

7)☐ Claim(s) _____ is/are objected to.

8)☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

9)☐ The specification is objected to by the Examiner.

10)☐ The drawing(s) filed on _____ is/are: a)☐ accepted or b)☐ objected to by the Examiner.

Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).

Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).

11)☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

12)☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).

a)☐ All b)☐ Some * c)☐ None of:

1.☐ Certified copies of the priority documents have been received.

2.☐ Certified copies of the priority documents have been received in Application No. _____.

3.☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

1) ☐ Notice of References Cited (PTO-892)
2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
3) ☒ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08) Paper No(s)/Mail Date _____.
4) ☐ Interview Summary (PTO-413) Paper No(s)/Mail Date. _____.
5) ☐ Notice of Informal Patent Application (PTO-152)
6) ☐ Other: _____.

Applicant's amendment of 7-19-05 has been entered. The examiner will address applicant's arguments at the end of this office action. Currently, claims 1-19 are pending.

1. The following is a quotation of the second paragraph of 35 U.S.C. 112:

> The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

2. Claims 18,19 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

Claims 18 and 19 both depend to claim "0" that does not exist. The scope of these claims cannot be ascertained and they are indefinite because of improper dependency. The newly submitted copy of the claims with the recent amendment controls over any previous copy of the claims and even though these claims have no markings to indicate they have been amended, the dependency has been changed.

1. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

> A person shall be entitled to a patent unless –
>
> (b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.
>
> (e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

2. Claims 7,8,17-19, are rejected under 35 U.S.C. 102(b) as being anticipated by Moore (6370454).

Applicant should take notice that there are two interpretations for claim 17 based on the scope of the claim.

For claims 7,17-19, Moore discloses a computer system that compares sensor data to data benchmarks to determine if a problem exists. *If no problem is found, this situation anticipates what is claimed (the language about the alert only is present if a failure is detected).* Claims 18 and 19 are also anticipated by Moore because what is claimed is only present if a failure (defective product) is noted. Claims 7,17 cover the situation where a product fails (generating an alert) and where a product passes (nothing else required in the claim).

Claims 8,17,18, are also anticipated because if a failure is found, an alert is generated as claimed. This problem is inherently deemed previously undetected because there was no problem previously noted. See figure 4 and 5 which show two screens for 1) vehicle status and 2) a problem screen. Also see column 7, lines 57-58 where it is disclosed that an indicator is flashed if a problem is noted. Claim 18 is anticipated if the problem is a new problem (not detected previously). Because a new problem inherently has not been detected previously, the specifics of claim 18 are not required.

3. Claims 1-19 are rejected under 35 U.S.C. 102(b) as being anticipated by Abreu (2001/0056359).

For claims 10,11, Abreu discloses a recall notification method as claimed. The system informs consumers about product recalls and of potentially harmful products. Abreu discloses establishing a session between a notification agent 10 and a terminal (user computer 30 or anyone that connects to agent 10). The users are classified into groups of audiences because the system interacts with many users or sources of data. Some audience members are simply for the acquisition of data to be used by the system and other members are persons interested in information about recalls. Access to information is regulated because a manufacturer cannot use the system to access information in a consumer's account and the consumer cannot use the system to access the data gathered from a manufacturer. See paragraph 142. Who you (audience type) are determines whether you have access or not to information in a given file.

For claims 12,14, see paragraph 128-131, where the alert process is disclosed.

For claim 13, when the system has determined an alert needs to be sent out, this conforms to a time according to a template. The template is that whenever a certain situation occurs, the system should send an alert.

For claim 15, the recall template is found in Abreu because the system inherently has stored instructions on what procedure is to be used to notify a given customer of the desired recall or other information. This could be emailing or auto dialing of a phone, or whatever mode of communication is selected by the customer. The recall repository is database 514. The recall agent is system 10 and operates as claimed. The system identifies consumers that have a desire for certain information (para. 128), transfers

information to the identified consumers, and inherently tracks the receipt of the information. Phone calls, pages, etc. are all recorded. Autodialing inherently has receipt of notification being recorded (the call happened).

For claim 16, see paragraph 234, lines 12-17. Approval by the health plan for a doctor visit or a test is a form of an authorization to perform remediation. Compensation will then be provided to the "service technician" as claimed.

For claims 1,4,5,7,8,9,17,18,19, see paragraph 251 where it is disclosed that in response to performance data (any kind of data about a product or biological variables of patients using a certain drug), the system can compare the data to "criteria for potential harmful effect" (a benchmark), and if needed, notify affected consumers that a new defect or problem has been identified based on the performance data. This is an early warning system as claimed in claim 1. The recall operations system and recall repository is the part of the system that stores the desired manner of communication for the consumer (email, phone, etc.). If the defect is newly noted, claims 8,18 are not required as they only cover the situation when a defect has been previously noted. The notification of affected consumers is a form of diffusion modeling, because the identifying of the consumers is a determination as to the extent of the problem (how many people are using a particular drug or product and need to be informed).

For claims 2,3,6, the cockpit application is considered to be communication software (i.e. modem drivers) that manages communications. The intended use that recites who the system of Abreu may communicate with, defines nothing to the system

itself and has been considered only to the extent that the prior art is capable of communicating with a customer, someone from the media, etc..

4. Claims 10-14 are rejected under 35 U.S.C. 102(e) as being anticipated by Busche et al. (6714893).

For claims 10-12,14, Busche discloses the establishment of a session between a notification agent (the system of Busche) and a terminal (a subscriber/source of recall/product data). Busche discloses a system that sends recall information (a report from report wizard 434) to subscribers via a network (Internet). The terminal of a subscriber (a citizen or a company or anyone) is an audience type, they are subscribers. Access is regulated because only information relevant to a subscriber is sent out in the report. This is a form of regulating access by only sending information that is deemed relevant. See column 7, lines 12-24. With respect to the language "the report structured according to a report template that is specific to the respective audience member type" is taken as non-functional descriptive material that is not given patentable weight. Additionally, the limitation really does not mean anything anyway, because it is so broad in scope. The limitation is really just reciting that the report has a format (template), which all reports inherently have. The language about being specific to a member defines nothing to the template and one can consider this to be satisfied by the fact that the report details only products of interest to the subscriber (a customized report based on the subscriber) .

For claim 13, Busche sends out a report when stored criteria (results of data analysis) triggers the system to send out a report. For example, see column 5, lines 21-52 where this is disclosed.

5. Claims 1-6,15-16, are rejected under 35 U.S.C. 102(e) as being anticipated by Mansfield ,Jr. (20040267608).

For claim 1, Mansfield discloses a system as claimed. The early warning system is inherent in step 210. A system of some kind is necessary to decide to generate an alert. The recall system and notification system is 10 and the recall repository is database 20. The recitations directed to what kind of data is being stored is interpreted as being non-functional descriptive material that does not get patentable weight. Data is data, and the type of data being stored will not be considered as defining over the prior art, when the system is structurally the same as the prior art.

For claim 2, the cockpit application is considered to be software in Mansfield that runs or controls the communications (a modem driver).

For claims 3,5,6, the claims are reciting non-functional descriptive material that does not get patentable weight. The type of "external entity" or "audience classification" and a "reporting template" are just data and are not functionally related to the recall system itself.

For claim 4, the recitation of "to perform product distribution" is not taken as a positive recitation of a step because the step is not being recited as being performed.

Additionally, the identification of consumers in Mansfield is a form of product distribution modeling. It is a way to see how much of a given product is out in the public.

For claim 15, Mansfield discloses a recall repository (database 20) and a recall agent (processor 10). The recall agent identifies consumers that purchased a recalled product and notifies them of the recall. Each group of consumers (the group for each product) defines an audience member type. The information about recalls is sent to the group of consumers based on the fact that they purchased a given product. This is the transfer of information based on member type (product group). Paragraph 45 discloses that information for consumers, that received information, is evaluated. Received information equates to recording a receipt of the information as claimed. Paragraph 27 discloses a template as claimed (even though the template itself is non-functional descriptive material and gets no patentable weight, the template is just data that is not functionally related to the system itself).

For claim 16, see paragraph 25, lines 1-3 for the disclosure of remediation being communicated (refund, rebate, etc.). Step 420, "Pay Recall Service Provider" satisfies the claimed "processes compensation" limitation.

6. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

> (a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negatived by the manner in which the invention was made.

7. Claims 7-9,17-19 are rejected under 35 U.S.C. 103(a) as being unpatentable over the very well known practice of a "product recall" as has be done with children's products (safety seats, cribs, high chairs, etc.), automotive related products (defective tires) and other types of items/products.

For claims 7-9,17-19, it is a well-known fact that various products in society are subject to a product recall, usually resulting from some sort of product related defect or safety concern. The recalling of a product inherently involves the comparison of product performance data to benchmarks to determine if a product needs to or should be recalled. This could be comparing data that indicates a child (first instance) or children have died due to some defect in a crib or safety seat, where the benchmark is that if a product causes one death in a child, the product is to be recalled. This could also be a comparison of how a tire should perform under normal operating conditions and after testing data indicates that huge numbers of a given type of tire are failing and causing death and serious injury to many people, deciding to recall the tires. The product recall can be interpreted to be an alert to society that a particular product is defective so they can avoid further injury by using the recalled product. The alert can also be interpreted to be any type of conveyance of information about the failure of the product. If a child dies due to a defective crib, an alert will be generated as claimed. The alert can be anything from the police filling out a police report to the coroner concluding the cause of death on a death certificate.

With respect to reciting that the method steps are instructions stored on a computer readable medium or that the data comparison is done with computers,

because of the exploding rate that our society uses computers to assist in managing data and conducting business, it would have been obvious to one of ordinary skill in the art at the time the invention was made to utilize a computer to perform the steps that are done in a product recall. Data on computers representing complaints by consumers, alleged injuries data, testing data, etc. would be used in a comparison to see if it looks like a product is failing. Cleary, if a tire company X received data that indicates that the their tires do not meet the Federal Government (DOT) minimal regulatory performance benchmarks, an alert will be generated (a report detailing data indicative of a failure, data itself indicating a failure, etc.).

With respect to the recitation of "statistical limits" in claims 8,18, this is inherently found in a product recall because if the particular defect is occurring at a rate that is not acceptable (can be one death), the product will have to be recalled. The "statistical limit" will vary depending on the given product but the decision to recall a product is made by assessing to what extent the product is failing and assessing the risk associated with the product. If one child is killed because of a defect in a car safety seat that should not have occurred, one death is enough to have the seat recalled. Statistical limits inherently are looked at during a product recall.

For claims 9,19, determining the extent to which products are proliferated (that may be recalled or are being recalled) is inherently part of the process of a product recall. Clearly if you have not shipped any of the products to market, there is no need for a recall. In other words, the assessment of whether or not there is even one of the defective products in the public satisfies what is claimed. On the other hand, if it is

found that a car safety seat is failing that is in public use, one would necessarily figure out how many have been sold and try to determine to what extent they are out in the market being used. One way to do this is the well known fact that the product registration forms that have been filled out by the purchaser of the product are used by companies to contact the consumers that have purchased a recalled product.

8. Claim 15 is rejected under 35 U.S.C. 103(a) as being unpatentable over Busche et al. (6714893).

For claim 15, Busche discloses a system that has a database (a recall repository). With respect to the "recall template", this is non-functional descriptive material that does not get patentable weight. A template is just data, which in article claims only get patentable weight if the data is functionally related to the product itself (in this case the system). This is not the case in claim 15. A template is not even a real physical thing but is intangible. Article claims are for real world things, not intangible things. The recall agent is the system of Busche that can ID subscribers, send them recall reports with recall information. Not disclosed is that the receipt by the subscriber of the report is recorded. It would have been obvious to one of ordinary skill in the art to record the receipt of the report by the subscriber so that you can ensure that a particular subscriber has been received the report (that may be of great interest to the subscriber).

9. Claims 10-14 are rejected under 35 U.S.C. 103(a) as being unpatentable over the "Tread Act" of Congress.

For claims 10,11, the "Tread Act" discloses establishing a session between an automated notification agent (the government, a product producer) and a terminal (the manufacturer). The Tread Act requires that manufacturers submit certain information to the government concerning possibly defective products and injuries or deaths that may have been caused by a given product. The Tread Act also specifically discloses and suggests an "electronic form" for the data that must be submitted by the manufacturers. This clearly is a disclosure of using modern technology (computers) for data submission and would inherently involve the use of a terminal (manufacturer side) and an automated agent (the government). Also disclosed is that with respect to the information submitted to the government, it will be kept confidential unless the "Secretary" deems that the disclosure of the information is required to comply with certain statutory obligations. This is considered to be the regulation of information based upon who you are. If you are Ford Motor Co, you cannot gain access to GM data, and vice versa. It may also be that the manufacturer can only send data to the government, which means that the access to data is regulated in the sense that only the government can view the data. The government employees reviewing the data are considered to be the claimed regulators.

For claims 12,13,14, the examiner considers it inherent that if the government decides that a particular product must be recalled to protect the public at large, the creation of a recall notification report would inherently be done. Inherently the manufacturer of the product would be notified of the recall by the government. With respect to the language "the report structured according to a report template that is

specific to the respective audience member type" is taken as non-functional descriptive material that is not given patentable weight. Additionally, the limitation really does not mean anything anyway, because it is so broad in scope. The limitation is really just reciting that the report has a format (template), which all reports inherently have. The language about being specific to a member defines nothing to the template. For claim 13, the time of the report generation satisfies the "at a time" limitation because when a recall is deemed necessary (a milestone template) a report is generated.

10. Claims 17-19 are rejected under 35 U.S.C. 103(a) as being unpatentable over section 12 of the Tread Act. The claims read substantially on the testing for vehicle rollover disclosed in section 12 of the Tread Act (Public Law 106-414); however it is not disclosed that the steps are stored on a computer readable medium.

Inherently when conducting a rollover test you are comparing performance data of some kind to data benchmarks. An example of a benchmark can be whether or not a vehicle rolls over in a given set of conditions. A rollover would indicate failing the test. The benchmark can also be vehicle stability data in many forms that indicate the stability of a vehicle in a given situation. The situation of a vehicle not rolling over (passing the benchmark) satisfies what is claimed. The portion dealing with a product that fails and generating an alert is only required when a product fails. A product that passes a test (it has had performance data compared to a benchmark) substantially satisfies the claim. The claim covers a product passing the benchmark and one not passing the benchmark. With respect to having the comparison of data be instructions

stored on a computer readable medium, it would have been obvious to one of ordinary skill in the art to use a computer to evaluate the test data for the rollover tests. The use of computers to evaluate test data has been done for decades and is the most obvious form of data collection and analysis (other than by hand). Claim 17 is basically reciting software/code for a computer to evaluate test data to make sure a product is in compliance with government regulations (a test benchmark).

11. Applicant's arguments filed 7/19/05 have been fully considered but they are not persuasive.

For claims 7-9 and 17-19, the examiner will address them together.

For claims 7-9 the examiner notes that applicant has amended the claims to recite the use of a computer in doing the performance data comparison; however, nothing was ever stated with respect to this limitation rendering the claims patentable over the prior art. The use of a computer was the subject of the rejection for claims 17-19 under 35 USC 103. Applicant's silence on the merits of the obviousness rejection in the 103 rejection is noted for claims 17-19. The obviousness statement itself is deemed proper as it was not challenged in any manner. 37 CFR 1.111.

Applicant has presented one argument for claims 7-9,17-19, which is that traditional product recall does not generate an alert if the failure of the product relates to a previously undetected product defect. The examiner disagrees.

First, applicant has made a conclusionary statement with no supporting rationale or evidence to support this position. A one sentence conclusionary statement of this type is of little value without a little bit of explanation.

Concerning the argument itself, the examiner believes applicant is more or less arguing that if a product fails a performance benchmark for the first time (not previously detected) no alert is generated. With respect to "an alert", this is broad language and can read on a person verbally, by email or by letter, informing another of the first instance of the failure, or can be an actual product recall. The death of a child due to a defective crib or car safety seat would most definitely result in an alert being generated as claimed. To do otherwise would mean that the first death of a child is totally ignored (not one email or memo or anything being written about the death due to the defective product). Applicant should also keep in mind that the scope of claims7 and 17 also include the situation where performance data is compared and nothing fails, so no alert is ever generated. The alert only is generated if a product fails, if it does not fail, there is no alert. Additionally, the scope of claims 7 and 17 include the situation where the failure is not previously undetected (was known earlier) and having an alert generated. This would read on the situation where after X number of products is found to have failed, generating a product recall. Claims 7 and 17 are very broad in scope and are properly rejected. Applicant's only argument is found to be non-persuasive for claims 7-9,17-19.

Concerning the Moore reference and the 102(b) rejection for claims 7,8,17-19, the examiner takes notice that only one of the actual rejections under Moore has been argued by applicant. The examiner specifically stated "*Applicant should take notice that there are two interpretations for claim 17 based on the scope of the claim*" but applicant has failed to address in any manner the first paragraph of the 102 rejection that deals with the first interpretation. The rejection based on the first interpretation is deemed proper due to the fact there is no argument traversing the position set forth in the first paragraph of the 102 rejection. 37 CFR 1.111.

With respect to applicant's argument concerning paragraph two of the rejection (the second interpretation rejecting claims 8,17,18) the argument is found to be non-persuasive. In Moore, if the problem is first detected (not previously detected), an alert is generated. Applicant stated that Moore deals with "a malfunction indicator for a single device....rather that detecting defects in a group of products". What detection of defects for a group of products is claimed in claims 7,8,17-19? None are claimed. The claims include only one product in their scope. Applicant's argument is not commensurate with the scope of the claims because no detecting of defects in groups of products has been claimed.

Concerning the 102(b) rejection in view of Abreu the arguments are non-persuasive.

For claim 1, applicant has argued that Abreu fails to disclose "return, repair, and service procedures" as being saved by the recall operations system. Applicant has

stated that the procedures saved in Abreu are not "return, repair and service procedures". First, because applicant is simply claiming this data as being stored and this data is not being used in any manner by the method steps, the kind of data stored is non-functional descriptive material that does not define over the prior art. Secondly, the term "return, repair, and service procedures" is very broad and is still just defining some kind of procedures to be followed. The claim recites that the stored data *represents* these procedures so this is very broad language that can mean just about anything. Abreu discloses (i.e. para. 127 and 128) that in the event that a harmful product is found to cause a life threatening situation that requires medical attention, the system will send an alert to the user of the product informing them of information such as where the user should go to get tested by a doctor and any other necessary information relating to new prescriptions etc.. This satisfies the claimed type of procedures applicant has argued is not in Abreu. No argument has been presented for claims 2-6 so they are deemed to be properly rejected.

For claims 7 and 17, applicant has argued that Abreu does not disclose determining whether or not an instance of failure was previously detected. The examiner disagrees.

The scope of the claims is such that even if applicant's argument was persuasive to that specific step argued, *the claim scope includes the situation where the failure that has been detected has been previously detected* and then statistical limits are compared with to see if any limits have been exceeded. This is what applicant has referred to in their arguments in citing Abreu (paragraph 251). Applicant has stated

that *"Abreu identifies a potential problem if the number of incidents reaches a certain level."*. This is exactly what claim 8 is reciting and is what applicant has stated Abreu discloses. The situation of having the failure be previously detected and also be not previously detected at the same time is impossible. It is not possible for the scope of the claims to require both situations at the same time. Clearly in Abreu, if one is comparing data to see if "*a certain number*" of incidents reach a certain threshold level, one is necessarily determining whether or not the failure was previously detected. If the certain number is 100 failures, after one failure has occurred and another is noted, you check to see if there is any record of a failure previously, if so, you total the number and if the threshold is met, generate an alert. The "certain number" can also be one (1), such as in the death of a child due to a defective car seat or crib. The claim includes the situation where the alert is generated at the first instance of a failure and also includes the situation where the alert is generated after the first instance (2nd or more). Abreu anticipates the scope of claims 7 and 17. No argument has been presented for claims 8-9, 18,19 with respect to Abreu so they are deemed to be properly rejected.

Concerning claims 10 and 15, the argument being made is not very clear and is confusing. Applicant has stated with respect to paragraph 142 of Abreu:

> "*In other words,* ***only product users*** *get access to the product information.*"(assumed to mean in Abreu)
>
> *Abreu does not distinguish between members of the audience,* ***sending information to only product users***."

What point is being made here? If only the users of certain products can get the information on that product, then the audience member type can be interpreted to be the product user group for that product. Each product would define a separate audience member type. A non-user of product A will not get access to the information about product A. This satisfies what has been claimed. Additionally, in Abreu it is disclosed that many different entities use and interact with the system. Some for data acquisition and some are the users of the products. They are all different "audience" member types and do not all have the same access to the same information. Company A or a first customer X cannot access the personal account of a 2nd customer Y. Each person is a different audience member. No argument has been presented for claims 11-14, 16, so they are deemed to be properly rejected.

Concerning Busche et al., applicant has argued that Busche does not regulate access to information in the recall repository based on the member type. To regulate does not necessarily mean to deny access in whole which seems to be what has been argued. If a customer can choose what information they want to receive, they must somehow have to notify the system of what their choices are, so the system can then regulate the flow of information to the end users. The claimed member type is defined by the kind of information the user desires to receive. That defines you and what your access will be to the data in the system, namely a member type. The argument is non-persuasive.

Concerning Mansfield, applicant has argued that a manufacturer decides to perform a recall and no mention is made of an early warning system that detects a pattern of product defects and generates an alert. The manufacturer themselves constitute an early warning system (an organization) and they detect a pattern of defects and decide to perform a product recall. This is inherent to step 210 "Decide to Recall", as stated by the examiner in the rejection of record and shown in figure 2 of Mansfield. The argument is non-persuasive because the claimed early warning system is inherent to step 210 and is necessarily present in Mansfield.

With respect to claim 15, applicant has argued that Mansfield does not regulate access based on an audience member type. Each group of consumers (the group for each product) defines an audience member type. The information about recalls is sent to the respective group of consumers that purchased a given product. This is the transfer of information based on member type (product group) with information being regulated. The argument is non-persuasive.

With respect to claim 15 and the 103 rejection in view of Busche, applicant has presented the same argument as for the 102 rejection of Busche and this argument is found non-persuasive for the same reasons set forth previously. The examiner notes that applicant has failed to address the actual obviousness statement of the 103 rejection, so it is deemed to be proper. 37 CFR 1.111.

For the 103 rejection of claims 10-14 in view of the "Tread Act", applicant has argued that the government is not a product producer. The federal government produces bonds, social security checks, money (paper and coin), secret military weapons, etc.. The government can very reasonably be called a product producer. The rejection is found to be proper as the government is a producer of products.

For claims 17-19 and the rejection in view of section 12 of the Tread Act, the situation of a vehicle not rolling over (passing the benchmark) satisfies what is claimed. The portion dealing with a product that fails and generating an alert is only required when a product fails. A product that passes a test (it has had performance data compared to a benchmark) substantially satisfies the claim. Applicant has failed to rebut this position set forth by the examiner. This interpretation and grounds of rejection is deemed proper.

With respect to the generation of an alert if the instance of failure was previously undetected, as stated previously the alert can be anything from an email to a verbal conveyance that the product has failed the test that has been mandated by the Tread Act. If a product fails the rollover test, an alert (notification, message, etc.) of some kind is going to be generated. Applicant's argument is essentially that no alert is generated once a product fails and it must take more than one failure to generate an alert (a very broad term). The argument is non-persuasive.

12. Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

13. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Dennis Ruhl whose telephone number is 571-272-6808. The examiner can normally be reached on Monday through Friday.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, John Weiss can be reached on 571-272-6812. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see http://pair-direct.uspto.gov. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

DENNIS RUHL
PRIMARY EXAMINER